

245816

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE

GENEVA BAIRD, individually )  
and as next friend/ next of kin of )  
Kathleen Baird, deceased, )  
and )  
LISA HORNE, )  
as next friend/next of kin of )  
Tammy Nelson, deceased )

Plaintiffs, )

v. )

FOOTPRINTS TO RECOVERY, )  
M. LEE BARRETT JR. individually and )  
d/b/a Barrett Realty Company, )  
and )  
PAMELA K. BARRETT, individually and )  
d/b/a Barrett Realty Company )

Defendants. )

No. 19C219

JURY DEMAND

2019 JAN 28 PM 3:41  
Worth D.C.

COMPLAINT

Comes now the Plaintiffs, Geneva Baird, both individually and as next friend/ next of kin to Kathleen Baird, deceased, and Lisa Horne, as next friend/ next of kin to Tammy Nelson, deceased, and file this wrongful death action against the Defendants, Footprints to Recovery and M. Lee Barrett Jr., individually and d/b/a Barrett Realty Company and Pamela K. Barrett individually and d/b/a Barrett Realty Company for damages. For cause they show as follows:

PARTIES

1. Plaintiff Geneva Baird is the natural mother and next of kin of Kathleen Baird, deceased. Plaintiff is a citizen and resident of Davidson County, Tennessee residing at 4820 Leesa Ann Lane, Hermitage, Tennessee 37076. Plaintiff Baird brings this action both in her individual capacity and in a representative capacity as next friend/ next of kin of the Decedent pursuant to Tenn. Code Ann. §§ 20-5-106, 20-5-107.

2. The Decedent, Kathleen Baird, was a citizen and resident of Davidson County, Tennessee residing at 414 Southwood Drive, Nashville, Tennessee 37211 on or about the time of her death.

3. Plaintiff Lisa Horne is the mother and next of kin of Tammy Nelson, deceased. Plaintiff is a citizen and resident of Bedford County, Tennessee residing at 601 Halls Mill Road, Shelbyville, Tennessee 37160. Plaintiff Horne brings this action in her representative capacity as next friend/ next of kin of the Decedent pursuant to Tenn. Code Ann. §§ 20-5-106, 20-5-107.

4. The Decedent, Tammy Nelson, was a citizen and a resident of Davidson County, Tennessee residing at 414 Southwood Drive, Nashville, Tennessee 37211 on or about the time of her death.

5. Upon information and belief, the Defendant Footprints to Recovery (hereinafter "Footprints") is a domestic nonprofit corporation licensed to conduct business in Tennessee with a principal place of business at 414 Southwood Drive, Nashville, Tennessee 37211. It is engaged in the business of providing residential sober living for its residents. Footprints, at all times relevant to this complaint, was operating the facility located at 414 Southwood Drive, Nashville, Tennessee 37217 in which Kathleen Baird and Tammy Nelson died. Defendant Footprints can be served with process through its registered agent Phyllis Abuan at its principal place of business, 307 Bowwood Drive, Nashville, Tennessee 37217.

6. Upon information and belief, Defendants M. Lee Barrett, Jr. and Pamela K. Barrett are citizens of Davidson County, residing at 976 Murfreesboro Pike, Nashville, Tennessee 37217. They are the owners of the real property and improvements located at 414 Southwood Drive, Nashville, Tennessee 37217. This property is the location where the sober living facility was operated by Footprints to Recovery. The Barretts do business individually and jointly as Barrett Realty Company which is located at 417 Welshwood Drive, Suite 203,

Nashville, Tennessee 37211. M. Lee Barrett, Jr., Pamela K. Barrett and Barrett Realty Company are all collectively referred to hereinafter as "the Barrett Defendants."

## **I. JURISDICTION AND VENUE**

7. This is a lawsuit arising out of the wrongful deaths of Kathleen Baird and Tammy Nelson that occurred in Nashville, Davidson County, Tennessee, on or about February 14, 2018. The tortious acts of Defendants described herein took place in Davidson County, Tennessee. Further, all named Defendants subject themselves to the jurisdiction of this Court by conducting business in Davidson County.

8. Venue is proper in Davidson County pursuant to Tenn. Code Ann. § 20-4-101(a).

9. Additionally, this Court has jurisdiction over the subject matter of this case and over all parties pursuant to Tenn. Code Ann. §§ 16-10-101, 20-2-201, 20-2-214, and other legal authorities.

## **II. FACTS**

10. This case arises out of the reckless and negligent failure of Defendants Footprints to Recovery and Barrett to provide a safe living place for Kathleen Baird and Tammy Nelson, who were residents of the sober living facility.

11. At a point in time prior to February 14, 2018, the Barrett Defendants leased to Footprints to Recovery the facility located at 414 Southwood Drive, Nashville, Tennessee 37217 for the purpose of running a sober living facility.

12. Upon information and belief, there were many deficiencies with the property, including but not limited to multiple code violations, that existed at the time the property was leased by the Barrett Defendants to Footprints. These deficiencies presented potential safety hazards to tenants who would be living within the facility. Amongst the potential foreseeable hazards were the risk of serious injury and death as a result of a fire.

13. Upon information and belief, the Barrett Defendants were well aware at the time they leased the premises to Footprints of these deficiencies, which included but were not limited to, improperly functioning and/or non-functioning smoke detectors/ alarms and an insufficient smoke detectors/ alarms.

14. The Barrett Defendants own and lease numerous other properties to tenants throughout Tennessee, many of which have similar defects. The Barrett Defendants have received numerous code violations associated both with this subject property as well as many of the other properties they lease.

15. The Barrett Defendants made no effort to remedy the above issues prior to leasing the premises to Footprints, despite being aware of their obligation as a landlord to provide the property to tenant Footprints in a safe condition, which would include properly functioning and a sufficient number of smoke detectors/ alarms.

16. The Barrett Defendants remained aware of the above issues during the course of Footprints' tenancy and made no effort to remedy same or ensure that Footprints did so.

17. It would have been feasible for the Barrett Defendants to fix, repair or otherwise remedy the deficiencies described above prior to leasing the facility to Footprints.

18. It would have been feasible for the Barrett Defendants to fix, repair or otherwise remedy the deficiencies described above after leasing the facility to Footprints.

19. Upon information and belief, Footprints, at the time they leased the property from the Barrett Defendants were aware of the many deficiencies with the property as stated above and were aware that these deficiencies presented potential safety hazards to tenants who would be living within the facility. Amongst the potential foreseeable hazards were the risk of serious injury and death as a result of a fire.

20. Footprints made no effort to remedy the above issues prior to leasing the premises

from the Barrett Defendants, despite being aware of their obligation as a tenant to provide a safe facility for their residents. This would include but not be limited to properly functioning and sufficient number of smoke detectors/alarms.

21. Footprints remained aware of the above issues during the course of Footprints' tenancy and made no effort to remedy same.

22. It would have been feasible for Footprints to fix, repair or otherwise remedy the deficiencies described above after leasing the facility but prior to accepting residents.

23. On or about February 14, 2018, Kathleen Baird and Tammy Nelson were each paying residents of Footprints to Recovery.

24. Prior to February 14, 2018, and up to and including that date, Footprints to Recovery was dramatically and dangerously overcrowded, did not have proper means of ingress and egress, including entries, exits and available stairs, in light of the number of residents living there, was being utilized in an improper manner to accommodate the excessive occupancy, did not have properly functioning smoke detectors and had multiple other code violations that made the subject property unsafe for inhabitation, as a sober living facility or otherwise, facts known to each of the defendants.

25. At no point prior to February 14, 2018 were Kathleen Baird, Tammy Nelson, or any of the other residents of Footprints ever provided training or planning with regard to evacuation in the event of a foreseeable emergency, such as a fire.

26. On February 14, 2018, a fire broke out at the premises. Unfortunately, and tragically, this fire resulted in multiple injuries and the deaths of three of the occupants of the facility including Kathleen Baird and Tammy Nelson.

27. Ms. Nelson, deceased, and Ms. Baird, deceased, were trapped inside a bedroom at the facility due to the negligence of the Defendants and their negligent failure to have properly

functioning smoke alarms and/or fire alarms, their failure to have adequate means of egress and fire exits for these residents, and their failure to maintain a safe premise, which as stated above, resulted in their tragic deaths.

28. While the facility was burning to the ground, Kathleen Baird was on her cell phone with her mother Geneva Baird screaming and pleading with her mother to help her as she was trapped and could not get out of the facility. The emotional devastation Geneva Baird endured while listening to her daughter die in the fire was and remains absolutely devastating.

29. While Ms. Baird clearly could hear the pleas and cries of her daughter, the discussion was also noteworthy in that Ms. Baird did not hear a smoke alarm sounding, something she clearly would have heard had the smoke detector been properly functioning.

### **III. CAUSES OF ACTION – NEGLIGENCE**

30. This tragedy was caused by the utter failures and breaches of duties owed to the deceased by the named Defendants both individually and/or collectively:

31. The Subject Property, owned by the Barrett Defendants and leased by Footprints to Recovery at the time leased and at the time of the incident was defective and unsafe and imminently and inherently dangerous to human life and limb.

32. Each of the Defendants individually and/or collectively owed a duty to Kathleen Baird and Tammy Nelson to provide each of them with a safe living environment, a duty the Defendants individually and/or collectively breached.

33. Defendants Footprints and Barrett failed and neglected, at the time of entering into the living arrangement with Baird and Nelson, and at all times thereafter, to inform or notify the decedents of the defective and unsafe condition but, to the contrary, falsely and negligently represented that the Subject Premises were in all respects safe for use in the manner for which it was utilized.

34. Had Defendants Footprints and Barrett properly inspected the subject property, they either would or should have known that the Subject Property was defective, dangerous, and unsafe if and when used for the purpose for which it was promoted, rented, and delivered to plaintiffs, including but not limited to its use as a safe haven to sober living.

35. It would have been feasible for the Defendant individually and/or collectively to ensure the facility was not overcrowded, used rooms only as intended, had proper means of ingress and egress and had properly functioning smoke detectors.

36. Upon information and belief, when the Barrett Defendant(s) leased the property to Footprints to Recovery, they knew or should have known that the property had insufficient and inadequate smoke detectors. Further, they knew or should have known the smoke detector present was not in proper operating condition.

37. The Defendants individually and/or collectively knew, or should have known, that the lack of functioning smoke detectors was dangerous and created a grave risk of serious harm to the residents of the premises.

38. As the Barrett Defendant(s) leased the premises to Footprints to Recovery with the above described deficiencies, this Defendant is liable to the plaintiffs for the wrongful deaths of Ms. Baird and Ms. Nelson.

39. In allowing the dangerous and hazardous conditions as described above, and in failing to warn, repair or otherwise remedy them despite the feasibility of doing so, Defendant Footprints and the Barrett Defendants each individually and/or collectively breached a duty owed to Plaintiffs and the decedents.

40. The Barrett Defendants retained the right to control the leased premises and in fact did exercise control over the leased premises. They had the duty and right to control the premises and to require and insist that the premises be safely maintained, be used in a safe

manner, to limit the occupants to a safe occupancy, to require compliance with all building and fire codes, to provide proper means of ingress and egress, and properly functioning smoke detectors. They negligently and recklessly failed to comply with this duty. In failing to do so, and in allowing a tenant to engage in such unsafe practices, the Barrett defendants negligently and recklessly allowed the dangerous and hazardous conditions as described above to exist in the property they owned.

41. As a direct and proximate result of the Defendants' negligence as described above, the Decedents, Kathleen Baird and Tammy Nelson, suffered fatal injuries proximately resulting in their deaths.

42. The Decedents each suffered horrible, almost unfathomable physical and emotional pain and suffering prior to their deaths.

#### **IV. WRONGFUL DEATH**

43. As a direct result of the negligence, and willful and wanton negligence of the Defendants, the Decedents each suffered conscious pain and suffering and mental anguish and a very painful and horrific wrongful death.

44. The Plaintiff Geneva Baird seeks in her representative capacity damages for the wrongful death of Kathleen Baird, her daughter, for damages including but not limited to the pecuniary value of Ms. Baird, deceased's life, as well as the personal injuries and conscious pain and suffering and mental anguish she endured prior to her death. The Plaintiffs further seek damages for the loss of filial consortium resulting from the death of her daughter as well as her daughter's funeral and burial expenses, and all of her damages allowed by law.

45. The Plaintiff Lisa Horne seeks in her representative capacity damages for the wrongful death of Tammy Nelson, her daughter, for damages including but not limited to the pecuniary value of Ms. Nelson, deceased's life, as well as the personal injuries and conscious pain



and suffering and mental anguish she endured prior to her death. The Plaintiffs further seek damages for the loss of filial consortium resulting from the death of her daughter as well as her daughter's funeral and burial expenses, and all of her damages allowed by law.

#### **V. INFLECTION OF EMOTIONAL DISTRESS**

46. As referenced above, Geneva Baird was on the phone with her daughter literally as her daughter was dying in this tragic incident. Horribly, she actually listened to her daughter's terror-filled screams as her life passed. She was devastated and traumatized by the magnitude of the event, and her aural observations of her daughter's trauma and suffering as she died, all the while knowing she was powerless to assist.

47. As a result of this incident, Ms. Baird individually was subjected to almost unfathomable emotional distress in her exposure to this event caused by the Defendants' individual and/ or collective negligent conduct. It was or should have been reasonably foreseeable to the Defendants that such negligent conduct would cause emotional disturbance and injury to a close family member of the decedent, such as Geneva Baird.

48. As a direct and proximate result of the above, Geneva Baird sustained serious emotional distress and damages, including but not limited to severe anxiety, depression, nightmares and inability to sleep.

49. The Plaintiff Geneva Baird in her individual capacity seeks damages for the infliction of emotional distress resulting to her from her daughter's death caused by the negligence, gross negligence and willful and wanton negligence of each of Defendants individually and/or collectively.

#### **VI. PUNITIVE DAMAGES**

50. The Defendants individually and/or collectively are guilty of reckless conduct in that this conduct constituted a gross deviation of the standard of care that should have been

exercised under the circumstances. The Defendants were aware of the fact that this conduct posed a significant unjustifiable risk of serious bodily injury and harm to others, including the Decedent, and the Defendants consciously disregarded this significant and unjustifiable risk of harm to the Decedent by failing to maintain a safe residence, violating numerous building and fire codes, and being grossly reckless. This was a gross deviation from the ordinary standard of care that should have been exercised under the circumstances and reckless conduct.

51. The Defendants' conduct constitutes a gross deviation of the standard of care that should have been exercised under the circumstances and were grossly and recklessly negligent.

52. The actions of the Defendants justify the imposition of punitive or exemplary damages by clear and convincing evidence.

## **VII. DAMAGES**

53. The foregoing acts caused the death of the decedent Kathleen Baird. The Plaintiff Geneva Baird is entitled to recover in a representative capacity compensatory damages from the Defendants for all such economic and non-economic damages including, but not limited to, funeral and burial expenses as well as economic damages for pecuniary value of the Decedent's life based on the loss of the Decedent's life. Additionally, she is entitled to recover for punitive damages as described more fully above.

54. Plaintiff Baird is further entitled to recover in an individual capacity for the infliction of emotional distress she suffered as a sequelae of the injuries incurred as a result of her daughter's death.

55. The foregoing acts caused the death of the decedent Tammy Nelson. The Plaintiff Lisa Horne is entitled to recover compensatory damages from the Defendants for all such economic and non-economic damages including, but not limited to, funeral and burial expenses as well as economic damages for pecuniary value of the Decedent's life based on the loss of the

Decedent's life. Additionally, she is entitled to recover for punitive damages as described more fully above.

56. Plaintiff Horne is further entitled to recover in an individual capacity for the infliction of emotional distress she suffered as a sequelae of the injuries incurred as a result of her daughter's death.

### **VIII. PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs Geneva Baird and Lisa Horne, each individually and as next friend/ next of kin of the Decedents, Kathleen Baird and Tammy Nelson, sue on behalf of their daughters and request the following relief:

(a) That proper process be issued to the Defendants requiring a response to this Complaint within the time permitted by law.

(b) That Geneva Baird in a representative capacity receive judgment for compensatory damages in an amount not to exceed \$2,500,000.00 against each of the Defendants and punitive damages in an amount not to exceed \$2,500,000.00 against each of the Defendants.

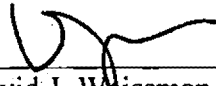
(c) That Geneva Baird in an individual capacity receive judgment for compensatory damages in an amount not to exceed \$1,000,000.00 against each of the Defendants for the infliction of emotional distress she suffered as a result of the wrongful death of Kathleen Baird.

(d) That Lisa Horne in a representative capacity receive judgment for compensatory damages in an amount not to exceed \$2,500,000.00 against each of the Defendants and punitive damages in an amount not to exceed \$2,500,000.00 against each of the Defendants.

(e) That all costs associated with this matter be taxed to the Defendants, including any and all discretionary costs.

- (f) That a jury of six be impaneled to try any and all issues joined in this case.

Respectfully submitted,



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David J. Weissman, #55188  
Raybin & Weissman, P.C.  
424 Church Street, Suite 2120  
Nashville, TN 37219  
615-256-6666  
615-254-4254 (fax)  
*Attorney for Plaintiffs*